

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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BRIAN BAGLEY,

Plaintiff,

9:20-cv-00683 (BKS/DJS)

v.

CHRISTOPHER MILLER, et al.,

Defendants.

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**Appearances:**

*Plaintiff, pro se:*

Brian Bagley  
17-B-0112  
Green Haven Correctional Facility  
P.O. Box 4000  
Stormville, NY 12582

*For Defendants:*

Letitia James  
Attorney General for the State of New York  
Konstandinos D. Leris  
The Capitol  
Albany, NY 12224

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff Brian Bagley, a New York State inmate proceeding pro se, commenced this civil rights action under 42 U.S.C. § 1983 asserting claims arising out of his incarceration at the Green Haven Correctional Facility. (Dkt. No. 1). On November 12, 2020, Defendant Christopher Miller filed a partial motion to dismiss under Fed. R. Civ. P. 12(b)(6), seeking to dismiss the claims against him for failure to allege his personal involvement in the alleged constitutional violations. (Dkt. No. 16). Plaintiff filed a response on January 22, 2021. (Dkt. No. 22). This matter was

referred to United States Magistrate Judge Daniel J. Stewart who, on April 8, 2021, issued a Report-Recommendation recommending that Defendant's motion to dismiss be granted because Plaintiff had failed to allege that Defendant Miller had, through his own individual actions, violated the constitution, as required by *Tangreti v. Bachmann*, 983 F.3d 609, 618 (2d Cir. 2020). (Dkt. No. 23). Magistrate Judge Stewart advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 23, at 5–6). No objections have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is


**ORDERED** that the Report-Recommendation (Dkt. No. 23) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Defendant Miller's partial motion to dismiss (Dkt. No. 16) is **GRANTED**; and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: May 4, 2021  
Syracuse, New York

  
Brenda K. Sannes  
U.S. District Judge